

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ARNOLD ANTHONY SILVA,

1:12-cv-00263-MJS (HC)

Petitioner,

ORDER TRANSFERRING CASE TO THE
UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF
CALIFORNIA

v.

DAREL ADAMS,

Respondent.

_____ /

Petitioner, a state prisoner proceeding pro se, has filed a habeas corpus action pursuant to 28 U.S.C. § 2254. On March 1, 2012, Petitioner filed an application to proceed in forma pauperis. (ECF No. 2.) The Court has not ruled on the application.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants reside in the same state, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.” 28 U.S.C. § 1391(b).

However, venue for a habeas action is proper in either the district of confinement or the

1 district of conviction. 28 U.S.C. § 2241(d). The district court for the district wherein such an
2 application is filed in the exercise of its discretion and in furtherance of justice may transfer the
3 application to the other district court for hearing and determination. Id.

4 It is preferable for petitions challenging a conviction or sentence to be heard in the
5 district of conviction while petitions challenging the manner in which the sentence is being
6 executed be heard in the district of confinement. Dunne v. Henman, 875 F.2d 244, 249 (9th
7 Cir. 1989). In this case, Petitioner is challenging the judgment relating to his conviction which
8 occurred in Sonoma County, California. As Sonoma County is located in the Northern District
9 of California, all of the material events, records, and witnesses are located in that district. In
10 the interest of justice, the petition will be transferred to the United States District Court for the
11 Northern District of California. 28 U.S.C. §§ 1404(a) and 2241(d).

12 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the United
13 States District Court for the Northern District of California.

14
15 IT IS SO ORDERED.

16 Dated: March 20, 2012

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE